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August 15, 2022

VIA ECF

Hon. Judge Mary Kay Vyskocil
United States District Court
Southern District of New York
500 Pearl Street, Room 2230
New York, NY 10007

Re: Martin v. New American Cinema Group, Inc., et al.
No. 22-cv-05982-MKV

Dear Judge Vyskocil,

This firm represents Plaintiff Katrina Martin in the above-captioned matter. I write in response to Your Honor's *Order to Show Cause* filed on August 15, 2022 (Dkt. 15) directing Plaintiff to "file a letter showing cause why this case should not be dismissed pursuant to Rule 41(b)."


As noted in the Court's *Order*, the Defendants were served on July 20, 2022, and their answers would have been due August 10, 2022. On August 5, 2022, attorneys Mr. Martin Schwimmer, Esq. and Mr. Brian Frye, Esq., on behalf of the Defendants, contacted the undersigned via email to discuss the case, and a settlement negotiation call was held on August 9, 2022.

While the negotiation did not resolve the parties' dispute, during that conference, Mr. Schwimmer requested a one-month extension of time to respond to the complaint. I verbally consented to that extension and requested that Mr. Schwimmer appear and file a request for the extension on the docket. Although he has not done so yet, I did not feel that it would be fair to request entry of default at this time, given that the one-month extension that I had verbally consented to had not yet run out. Absent further direction from this Court or a response to the Complaint from Defendants, Plaintiff respectfully requests leave to wait to seek default pursuant to Rule 55(a) until on or after September 10, 2022.

Contemporaneously with the filing of this letter, I will serve on Mr. Schwimmer and Mr. Frye a copy of the Court's *Order to Show Cause* as well as a copy of this letter via email.

GRANTED. Defendants' deadline to answer or otherwise respond to Plaintiff's Complaint is extended to September 10, 2022. If Defendants have failed to answer or otherwise respond by this date, and if Plaintiff has not taken further action to prosecute this case, the case may be dismissed for failure to prosecute. SO ORDERED.

Date: 8/30/2022
New York, New York


Mary Kay Vyskocil
United States District Judge

Sincerely,

/s/ Erik Dykema
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